

Notice of Allowability

Application No.

09/711,660

Examiner

Philip C Lee

Applicant(s)

KLEIN, PAUL F.

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2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/28/04.
2. ☒ The allowed claim(s) is/are 1-48.
3. ☒ The drawings filed on 13 November 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/12/2001
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.
2. Authorization for the examiner's amendment was given in a telephone interview with Jason Feldmar, reg. no. 39,187, on September 28, 2004.
3. The application has been amended as follows:

Claim 12 (currently amended) A method of determining a network segment response time comprising:

obtaining a total response time as a total time from activating an event at a client, detecting an outbound message outbound to a network, transmitting a first network packet having an actual first packet size from the client to a server, and arrival of an inbound result on a message queue at the client from the server;

obtaining a total trivial time for a trivial request packet between a time prior to sending the trivial request packet from the client to the server to a time after a response is received at the client from the server;

obtaining a network segment trivial response time by dividing the total trivial request time by two;

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matching the first network packet with a trivial request packet based on the actual size of the first network packet and a size of the trivial request packet; and

deriving the network segment response time from the total response time as the network segment trivial response time corresponding to the matched trivial request packet.

Claim 25 (currently amended) A system for determining a network segment response time comprising:

(a) a total response time agent configured to obtain a total response time as a total time from activating an event at a client, detecting an outbound message outbound to a network, transmitting a first network packet having an actual first packet seize from the client to a server, and arrival of an inbound result on a message queue at the client from the server;

(b) a trivial response time agent configured to:

(1) obtain a total trivial time for a trivial request packet between a time prior to sending the trivial request packet from the client to the server to a time after a response is received at the client from the server;

(2) obtaining a network segment trivial response time by dividing the total trivial request time by two;

(b) a datastream agent configured to maintain information about the first network packet transmitted from the client to the server;

(c) the client configured to;

(1) match the network packet with a trivial request packet based on the actual size of the first network packet and a size of the trivial request packet; and

(2) derive the network segment response time from the total response time as the network segment trivial response time corresponding to the matched trivial request packet.

Claim 37 (currently amended) An article of manufacture embodying logic for performing a method of determining a network segment response time, the method comprising:

obtaining a total response time as a total time from activating an event at a client, detecting an outbound message outbound to a network, transmitting a first network packet having an actual first packet size from the client to a server, and arrival of an inbound result on a message queue at the client from the server;

obtaining a total trivial time for a trivial request packet between a time prior to sending the trivial request packet from the client to the server to a time after a response is received at the client from the server;

obtaining a network segment trivial response time by dividing the total trivial request time by two;

matching the first network packet with a trivial request packet based on the actual size of the first network packet and a size of the trivial request packet; and

deriving the network segment response time from the total response time as the network segment trivial response time corresponding to the matched trivial request packet.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Lee whose telephone number is (703) 305-7721. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other

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Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for Group 2100 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)350-6121.

Philip Lee

September 28, 2004

 **JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**